

FILED

NOV 15 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

EARL X,

Petitioner - Appellant,

v.

MITCH MORROW,

Respondent - Appellee.

No. 02-36051

D.C. No. CV-99-00939-BR

ORDER

BEFORE: HUG, McKEOWN and FISHER, Circuit Judges.

The panel has voted to grant appellant's petition for rehearing. Judges McKeown and Fisher have voted to deny the petition for rehearing en banc, and Judge Hug recommended denying the petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc and no judge of the court has requested a vote on whether to rehear the matter en banc.

Fed. R. App. P. 35.

The petition for rehearing is **GRANTED** and the petition for rehearing en banc is **DENIED**.